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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,167	07/28/2003	Samuel H. Christie IV	7000-263	5590
27820 7590 11/17/2008 WITHROW & TERRANOVA, P.L.L.C. 100 REGENCY FOREST DRIVE SUITE 160 CARY, NC 27518				
EXAMINER				
PHAM, BRENDA H				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/628,167

**Applicant(s)**

CHRISTIE, SAMUEL H.

**Examiner**

BRENDA PHAM

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-38 are pending in the application.

***Response to Arguments***

2. Applicant's arguments filed 03/26/08 have been fully considered but they are not persuasive. Applicant argued in the REMARKS that "the cited reference does not disclose, or even suggest, that, after a plurality of communication sessions have been established, selecting one of the communication sessions and then identifying the first active communication session." Examiner respectfully disagrees. The limitation "after a plurality of communication sessions have been established" is not in the claim. The limitation of claim 1 simply states "establishing a plurality of communication sessions", nothing in the claim suggests "a plurality of communication session have been established". Applicant further argues that "Pan does not disclose identifying a first active communication session, which has been selected from a plurality of communication sessions." Again there is nothing in the claim suggests that identifying a first active communication session after a plurality of communication session has been selected." The claim limitation simply states "selecting one of the plurality of communication sessions to be a first active communication session; identifying the first active communication session to the network proxy." Applicant further argues that "provides a SIP invite request 300 to a SIP proxy 212, is not relate to identifying a first active communication session to a network proxy". Examiner respectfully disagrees. Examiner interprets "identifying the first active communication session" is in a form of

SIP invite request for call transaction identifiers. Nothing in the claim clarified how the step of identifying the active communication session came about. As states in the Office Action, Pan et al discloses a method for facilitating packet communications from a terminal to a network proxy comprising:

establishing a plurality of communication sessions **(establishing communication session 214 and communication session 220)** via a plurality of access networks **(cellular network 502 and access network 504)** with the network proxy **(proxy network 212)**, which facilitates communications between terminal **(communication device 202)** and at least one communication device **(communication device 204)**. **(Figure 5 shows the establishing of communication session 214 and communication session 220, which facilitates communications between source terminal 202 and destination communication device 204, Col. 9, lines 25-30 teaches “the first communication device 202 and the second communication device 204 initiate multiple communication sessions across the same communication path or paths and each individual communication session is defined by the accompanying SIP call transaction identifier, such as 302 or 402);**

selecting one of a plurality of communication sessions to be a first active communication session **(Col. 3, lines 47-50 shows a first communication session is selecting to be a first active communication session for transmitting text or voice data);**

identifying the first active communication session to the network proxy **(Pan et al further the first network 206 identifying the first active communication session by**

**provides the first SIP invite request to the SIP proxy 212, via communication path 216, Col. 3, lines 35-40);**

transferring packets to or from the network proxy using the first active communication session of effect communication with the at least one communication device (**“within the first communication session, communication information is of a first media and communicated through a first network”, step 610), (FIG. 5 and FIG. 6).**

Examiner respectfully believes Pan et al disclose all the claimed limitations recited in arguable claim. Therefore, the rejections stand.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 10-17, 20-27, 29-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Pan et al (US 6,862,277).

Regarding claims 1, 11, 21 and 30, Pan et al disclose a device and method for facilitating packet communications from a terminal to a network proxy comprising:

establishing a plurality of communication sessions (session 214 and session 220) via a plurality of access networks (**cellular network 502 and access network 504**) with the network proxy (proxy 212), which facilitates communications between the terminal (202) and at least one communication device (204);

selecting one of the plurality of communication session to be a first active communication session ("**conduct a first communication session through the SIP proxy with a second communication device, utilizing the first SIP invite request**", **step 606**);

identifying the first active communication session to the network proxy ("**the first communication device 202 provides the first SIP invite request 300 to the SIP proxy 212 across the cellular network 502 via communication path 214**" (Col. 4, **lines 65-67**); and

transferring packets to or from the network proxy using the first active communication session to effect communications with the at least one communication device ("**within the first communication session, communication information is of a first media and communicated through a first network**", **step 610**), (FIG. 5, FIG. 6)

Regarding claims 2, 12, 22, 31, Pan et al further teach selecting at least a second one of the plurality of communication session to be a second active communication session wherein there are at least first and second active communication sessions ("**conduct a second communication session through the**

**SIP proxy with a second communication device, utilizing the second SIP invite request", step 608);**

Transferring packets to or from the network proxy using the first and second active communication sessions to effect the communications with the at least one communication device (**"within the second communication session, communication information is of a second media and communicated through a second network", step 612).**

Regarding claims 3, 13, 23 and 32, Pan et al further teach wherein the packets transferred using the first active communication session carry information different than carried in the packets transferred using the second active communication session (**"the first communication session is directed to a first media, such as, but not limited to, text or voice data....the second communication session may also be directed to at least one media type, such as, but not limited to, video."**, Col. 3-4, line 45-50, 1-5, respectively).

Regarding claims 4, 14, 24, 33, Pan et al further teach wherein the packets (request packets) are duplicated and sent over both the first and second active communication sessions (**see FIG. 7 for REQUEST PACKET AS BEING DUPLICATIVE**). Pan further teaches (**"A determination is made if the second session invite request (400) is duplicative by comparing the first and second call**

**transaction values (303, 403) of the first and second call transaction identifiers (302, 402).” Abstract)**

Regarding claim 5, 15, 25 and 34, Pan et al further teach determining a need to switch from the first active communication session;

selecting at least a second one of the plurality of communication session to be a second active communication session;

providing indicative of the need to switch from the first active communication session to the second active communication session; and

transferring packets to or from the network proxy using only the second active communication session effect the communications with the at least one communication device (Col. 11, line 8-24).

Regarding claims 6, 16, 26 and 35, Pan et al discloses transferring the packets to or from the network proxy using the first and second active communication session to effect the communication with the at least one communication device prior to using only the second active communication session **(FIG. 6 shows first and second active communication sessions (610, 612)) and (FIG. 11 shows “if the first communication device 202 moves out of range of the access point 518, such that the RSSI is below a minimum threshold value or other criteria established by the access network 504, the second media portion of the multi-media communication session will be terminated.” Col. 12, lines 1-10).**



Regarding claims 7, 17, 27 and 36, Pan et al further discloses sending second indicia instructing the network proxy to stop using the first active communication session **(FIG. 11 shows if the first communication device 202 moves out of range of the access point 518, such that the RSSI is below a minimum threshold value or other criteria established by the access network 504, the second media portion of the multi-media communication session will be terminated. In one embodiment, the first communication device 202 or the access point 510 will transmit a SIP bye message to the second communication device 204"** col. 12, lines 1-10)

Regarding claims 10, 20, 29, 38 Pan et al teach wherein communication with the plurality of access networks are based on disparate communication technologies **(col. 4, line 50-55, "a cellular network 502 and the access network 504, such as a Bluetooth or IEEE 802.11 access network or any suitable other access network as recognized by one having ordinary skill in the art.")**

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pan et al (US 6,862,277 B2) in view of Monachello et al (US 6,748,439 B1).

Regarding claims 8 and 18, Pan does not disclose step of receiving temporary IP addresses from the respective access networks and using the temporary IP addresses to establish the plurality of communication sessions, wherein a public IP address associated with the terminal is supported by the network proxy. This claimed limitation is well known in the art and is taught by Monachello et al.

Monachello et al discloses a method for dynamically selecting a network service provider. Monachello teaches **“a DHCP server/proxy/relay on the CPE or CO box is used to obtain and distribute an IP address. The workstations are configured to use DHCP to acquire their IP address. When the workstation is booted, it sends a DHCP request for an address. The DHCP server running on the CPE will assign the workstation a temporary address. The user can now run the web based service selection application.”**

It would have been obvious to those having ordinary skill in the art at the time of the invention was made to implement the step of receiving temporary IP address, such as taught by Monachello in Pan, to allow workstation dynamically selecting a network service provider.

7. Claims 9, 19, 28 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pan et al (US 6,862,277 B2) in view of Watanabe et al (US 7,072,657 B2).

Regarding claims 9, 19, 28 and 37, as explained in the rejection statement of claims 1, 11, 21 and 30 (parent claims). Pan et al disclose all the claimed limitations

recite in parent claims. Pan does not teach wherein the communication sessions are tunneling sessions with the network proxy. Watanabe et al, in the same field of endeavors, teach this limitation.

Watanabe et al teach a method called an IP tunneling, by encapsulating the packet by the header of the relevant communication protocol and passing the resultant data through the network existing on the communication path between the two terminals, the communication between the two terminals can be realized.

Therefore, it would have been obvious to those having ordinary skill in the art at the time of the invention was made to implement the system and method of Pan et al using tunnel sessions.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

November 12, 2008

/Brenda Pham/

Primary Examiner, Art Unit 2416